



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gilby
Serial No.: 10/650,213
Filing Date: August 28, 2003
Title: Fluorescence Detector Geometry

Examiner: Geisel, Kara E.
Art Unit: 2877
Confirmation No.: 7163

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

**Petition Under 37 CFR § 1.78(a)(3) to Accept an Unintentionally Delayed
Claim for the Benefit under 35 USC § 120 of a Prior-Filed Application**

Dear Sir:

1. Applicant requests acceptance of an unintentionally delayed claim for benefit, under 35 U.S.C. § 120, to prior filed International Application No. PCT/US02/06336, which designated the United States and was filed on March 1, 2002.
2. The required reference under 37 CFR § 1.78(a)(2)(i) to prior filed Application No. PCT/US02/06336 is included in: an Application Data Sheet, submitted herewith under 37 CFR § 1.76(a) and (d)(1), and in an amendment of the first sentence of the present application introduced in an Amendment and Response, also submitted herewith.
3. The first sentence of the application as originally filed claimed priority to Application No. PCT/US02/06336, but did not explicitly state the claim for benefit under 35 U.S.C. § 120.
4. The Declaration submitted on March 22, 2004, in error, claimed foreign priority benefits under 35 U.S.C. § 119 to Application No. PCT/US02/06336. The Application Data Sheet submitted herewith corrects this error.
5. The entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.
6. Applicant notes that Application No. PCT/US02/06336 is entitled under 35 U.S.C. § 119(e) to the benefit of U.S. Provisional Application No. 60/273,093 ("the Provisional Application"). A priority claim to the Provisional Application was properly submitted and acknowledged in Application No. PCT/US02/06336, and the first sentence of Application No.


PCT/US02/06336, as originally filed, properly claimed priority to the Provisional Application (see, e.g., MPEP § 201.11(III)(B).) (Copies of the cover page of the publication and the first page of the specification of Application No. PCT/US02/06336 are attached to this Petition.) The claimed benefit of the Provisional Application was subsequently reiterated in the first sentence of the present application as originally filed and in the Declaration submitted on March 22, 2004, which correctly reiterated the claimed benefit under 35 U.S.C. § 119(e) to the Provisional Application. Accordingly, if the present petition is granted, Applicant requests acknowledgement of the priority relationship under 35 U.S.C. § 119(e) between Application No. PCT/US02/06336 and the Provisional Application.

7. The Commissioner is authorized to charge the surcharge of \$1,370, as set forth in § 1.17(t), to Deposit Account No. 23-0503.

Reg. No. 45,054
Customer No. 43840
Tel. (508) 482-3869

September 7, 2006

Respectfully submitted,



Jamie H. Rose
Attorney for Applicant